

Exhibit “E”

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

WAYNE VAN SCOY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	05-108 (KAJ)
VAN SCOY DIAMOND MINE OF)	
DELAWARE, INC., KURT VAN SCOY)	
and DONNA VAN SCOY,)	
)	
Defendants.)	

Video deposition of KURT VAN SCOY taken pursuant to notice at the offices of Ashby & Geddes, 17th Floor, 222 Delaware Avenue, Wilmington, Delaware, beginning at 10:00 a.m. on Tuesday, July 26, 2005, before Anne L. Adams, Registered Professional Reporter and Notary Public.

APPEARANCES:

MICHAEL F. PETOCK, ESQ.
 MICHAEL C. PETOCK, ESQ.
 PETOCK & PETOCK
 46 The Commons at Valley Forge
 1220 Valley Forge Road
 Valley Forge, Pennsylvania 19482-0856
 for the Plaintiff,

CHARLES N. QUINN, ESQ.
 FOX ROTHSCHILD
 2000 Market Street, 10th Floor
 Philadelphia, Pennsylvania 19103-3291
 for the Defendants.

ALSO PRESENT: Wayne Van Scoy
 Donna Van Scoy
 Lisa Bauer - Video Specialist

 WILCOX & FETZER
 1330 King Street - Wilmington, Delaware 19801
 (302) 655-0477



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1 put them on, that's fine.

2 MR. F. PETOCK: That's all you're allowed to
3 do, objection as to the form of the question.

4 MR. QUINN: All objections are reserved,
5 correct?

6 MR. F. PETOCK: Except as to form of the
7 question, right.

8 MR. QUINN: Except as to the form of the
9 question, is that stipulated?

10 MR. PETOCK: Yes.

11 MR. QUINN: Okay.

12 BY MR. PETOCK:

13 Q. Do you remember who was present at that meeting?

14 A. I don't.

15 Q. Who would have been present? Who is normally
16 present at a corporate meeting?

17 A. Myself --

18 MR. QUINN: Objection. That's two
19 questions.

20 BY MR. PETOCK:

21 Q. Who is normally present at a corporate meeting?

22 A. Me.

23 Q. Is there anyone that would remember what trade
24 name issues were discussed?



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1 A. Not in a while. I, actually, I forgot to take
2 it on vacation. I wanted to, actually, review it again.

3 Q. From what you remember, do you agree with the
4 statements he makes regarding the diamond business in the
5 book?

6 A. I don't recall.

7 Q. Was your father incorporated?

8 A. To be honest, I didn't know until, actually, just
9 seeing the statements. Again, I don't know that he was
10 actually incorporated until I saw the filing of the
11 papers.

12 Q. Which papers are you referring to?

13 A. To the lawsuit.

14 Q. You never saw -- did you ever see any of the
15 sales receipts or invoices or anything when you were
16 working for the business?

17 A. Yeah, you do.

18 Q. Describe to me exactly what you did when you were
19 working for the business for your father. That was
20 during what years? I'm going to ask you that first.
21 What years did you work for your father's business?

22 A. I started when I was, personally, I started when
23 I was about 10 years old. So I'm 39. Geez, 29 years
24 ago.



1 opinion?

2 A. Yes.

3 Q. Did you have knowledge of the fact that -- do you
4 have knowledge of the fact that the mark Van Scoy Diamond
5 Mine is federally registered?

6 A. No.

7 Q. I asked you -- I will repeat the question.

8 Do you have knowledge of the fact that the
9 mark Van Scoy Diamond Mine is federally registered?

10 A. No, until now.

11 Q. Do you know now that the mark Van Scoy Diamond
12 Mine is federally registered?

13 A. Yes.

14 Q. When did you first become aware of this?

15 A. November the 18th of 2004.

16 Q. How did you become aware of it that day?

17 A. From a letter from your office or your dad's
18 office.

19 Q. What did you do after you received the cease and
20 desist letter of November 18th, 2004?

21 A. Sought counsel.

22 Q. Who did you contact to be your counsel?

23 A. It was actually in Wilmington. Someone -- it was
24 just a brief encounter with counsel in Wilmington. And



1 BY MR. PETOCK:

2 Q. I will rephrase the question. Was it easier to
3 open your Van Scoy Diamond Mine in a location where your
4 father had for several years already operated a Van Scoy
5 Diamond Mine?

6 A. After it was closed 16 months, and that was the
7 location that we reopened, yes.

8 Q. Is your answer yes?

9 A. Yes.

10 Q. You originally opened using the name Van Scoy
11 Diamond Mine, correct?

12 A. That's correct, Van Scoy Diamond Mine of
13 Delaware, Incorporated.

14 Q. When you originally opened, were you using the
15 name Van Scoy Diamond Mine or Van Scoy Diamond Mine of
16 Delaware, Incorporated?

17 A. I don't understand the question.

18 Q. When you originally opened your store, were you
19 using the name Van Scoy Diamond Mine or were you using
20 the name Van Scoy Diamond Mine of Delaware, Incorporated?

21 A. I still don't understand the question.

22 Q. What don't you understand about the question?

23 A. If you are talking outside the store or -- you
24 know what I mean? What's outside, the marquee outside?



1 Q. Yeah.

2 A. Okay.

3 Q. Okay. What was outside the store?

4 A. Van Scoy Diamond Mine.

5 Q. What about, what did you use on your sales
6 receipts?

7 A. Van Scoy Diamond Mine of Delaware, Incorporated.

8 Q. Did you use those when you first opened your
9 store?

10 A. When we first opened up, actually, no. My father
11 gave me sales pads, actually, from the Gateway Shopping
12 Center store and also the 154 Mundy Street store.

13 Q. Did they just say Van Scoy Diamond Mine on them?

14 A. I did and then we had to put a sticker over for
15 our new address. My father was trying to save me money.

16 Q. Did you inform Wayne, in any way, that you were
17 opening a Van Scoy Diamond Mine in Delaware?

18 A. He clearly knew.

19 Q. How do you know that he clearly knew?

20 A. I remember specifically when we were trying to
21 move the safe out of the Wilkes-Barre store, my brother
22 Kenny and him sat on a Lazy Boy chair, and his exact
23 quotes as my father and I -- my father was helping me
24 move the safe. And they just sat there. Wayne said to



1 my brother Kenny, quote, unquote, Kenny, I give him two
2 months. No, I give him three months and he's going to be
3 in so much debt he won't even know what happened to him,
4 quote, unquote.

5 Q. Who selected the name Van Scoy Diamond Mine for
6 your store?

7 A. My father and I.

8 Q. Why was the name Van Scoy Diamond Mine selected?

9 A. Because that's our family business.

10 Q. Did the name have goodwill attached to it?

11 A. The store was closed for 15 months, 16 months
12 roughly, somewhere around there. That's what they said.
13 The store was closed and people actually weren't very
14 happy.

15 Q. Who wasn't happy?

16 A. Customers from the area that purchased rings in
17 the past.

18 Q. Where did you receive that information?

19 A. From customers actually coming to the
20 Wilkes-Barre store from driving up and weren't very
21 happy. And also the fact after I opened the store,
22 customers came in and, you here today, are you going to
23 be here next week? So I had to put up with that for
24 probably about two or three years.



1 de-confuse you. That all kind of got, you guys got
2 talking at the same time. I don't think the record is
3 going to be clear. It's certainly not clear in my mind
4 as to what was happening.

5 BY MR. PETOCK:

6 Q. Did you ever register the domain name
7 vanscoydiamondmine.com?

8 A. Yes.

9 MR. QUINN: Objection to the form of the
10 question in the sense when he says you, are you referring
11 to the defendant personally or the entity, the three
12 defendants or what?

13 BY MR. PETOCK:

14 Q. I am referring to you and your company. I'm
15 referring to you personally, Kurt. Did you register the
16 domain name vanscoydiamondmine.com?

17 A. Personally, no.

18 Q. Did your company register the domain name
19 vanscoydiamondmine.com?

20 A. Yes.

21 Q. When did that occur?

22 A. June -- July 12th, I think, 2002.

23 Q. Did someone recently renew the registration?

24 A. I'm not sure. I'm really not sure.



1 store or outside the store?

2 A. The only thing that was left was actually on the
3 top. Just the "Van Scoy" was there. And, actually, the
4 "Diamond Mine" part down here is actually inside the
5 premises. And that's actually the sign that we took out
6 of my father's warehouse, he actually helped me load up
7 in the U-Haul truck.

8 Q. So your father did not give you a sign that said
9 Van Scoy Diamond Mine; he gave you a sign that said
10 Diamond Mine.

11 A. Diamond Mine, right. Well, Van Scoy, he said
12 part of the sign is there. He says, here, just take the
13 bottom part. This is what you need, Van Scoy Diamond
14 Mine. He left the sign there. The top part he left
15 there.

16 Q. And the landlord had not taken the sign down?

17 A. No, he did not.

18 Q. How big is the safe in your store?

19 A. Exact, I'm not sure.

20 Q. Is it a walk-in safe?

21 A. No.

22 Q. What is the sign that the Diamond Mine is made
23 out of?

24 A. Fiberglass, fiberglass and metal, aluminum.



1 click on it or certainly E-mail us if they are interested
2 in purchasing or call us.

3 Q. Have you made any sales through your website?

4 A. One for a mounting. One.

5 Q. Do you know where that customer was located?

6 A. Actually, it was from a gentleman that I know
7 from DOD training. He lives in North Carolina. He
8 contacted his son. He had his son go on the website,
9 find a mounting that he liked. He contacted me and I
10 sent the mounting down to his son.

11 Q. Do you have a picture of all your products on
12 your website?

13 A. No.

14 Q. On your current website,
15 vanscoydiamondsofdelaware, there are pictures of at least
16 716 of your products. Does that sound about right?

17 A. Products that are available, sure.

18 Q. Did you ever make any sales through your website
19 at vanscoydiamondmine.com?

20 A. No. Actually, that was, it was a mounting. That
21 was it.

22 Q. That was the sale that you made?

23 A. The guy, he said, tell him to go to the website
24 and take a look at the mounting.



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1 Q. So you made your sale through the website,
2 vanscoydiamondmine.com?

3 A. He had a style what he was looking for. And I
4 told him there was a picture on the website. If you go
5 to that picture, he took a look at it. And he said I'm
6 going to use your best judgment. Send me what you have
7 that looks similar to what he's looking for.

8 Q. But that sale was made through
9 vanscoydiamondmine.com?

10 A. I can't say that, no. Directly through that, no,
11 no.

12 Q. I mean, when was this purchase made?

13 A. Oh, God. Probably 10 months ago, 11 months ago
14 at least.

15 Q. So at that time vanscoydiamondsofdelaware didn't
16 exist; it was vanscoydiamondmine.com, correct?

17 A. I believe so.

18 Q. Is Newark, Delaware, a different geographic
19 market for diamonds than Wilkes-Barre, PA?

20 A. I don't understand that question. What do you
21 mean by that?

22 Q. How would you define your sales market for your
23 business?

24 A. Very competitive.

